

S.B. 479	S.B. 986
S.B. 603	S.B. 987
S.B. 608	S.B. 1013
S.B. 615	S.B. 1064
S.B. 651	S.B. 1121
S.B. 653	S.B. 1131
S.B. 687	S.B. 1149
S.B. 695	S.B. 1194
S.B. 702	S.B. 1206
S.B. 710	S.B. 1065
S.B. 729	S.B. 1098
S.B. 796	S.B. 1116
S.B. 747	

SEVENTY-FOURTH DAY
(Thursday, May 21, 1981)

The Senate met at 11:00 o'clock a.m., pursuant to adjournment and was called to order by the President.

The roll was called and the following Senators were present: Andujar, Blake, Brooks, Brown, Caperton, Doggett, Farabee, Glasgow, Harris, Howard, Jones, Kothmann, Leedom, Mauzy, McKnight, Meier, Mengden, Ogg, Parker, Richards, Santiesteban, Sarpalius, Short, Snelson, Traeger, Travis, Truan, Uribe, Vale, Williams, Wilson.

A quorum was announced present.

Senator Dee Travis offered the invocation as follows:

Father in Heaven, we are grateful for the freedoms that we enjoy, that allow us to come and meet here today. We ask Your blessings upon this group as decisions will be made for our communities and our state. Father, we ask that we always be in accordance with Your will and that we have the courage to follow Your guidance. We ask that You be with us as we endeavor to live our lives in Your service, in Christ's name. Amen.

On motion of Senator Mauzy and by unanimous consent, the reading of the Journal of the proceedings of yesterday was dispensed with and the Journal was approved.

MESSAGE FROM THE HOUSE

House Chamber
May 21, 1981

HONORABLE W. P. HOBBY
PRESIDENT OF THE SENATE

Sir: I am directed by the House to inform the Senate that the House has passed the following:

H.C.R. 200, Commemorating the arrival of the railroad in Big Spring and Howard County.

The House concurred in Senate amendments to **H.B. 729** by a non-record vote.

Respectfully,

BETTY MURRAY, Chief Clerk
House of Representatives

REPORTS OF STANDING COMMITTEES

Senator Santiesteban submitted the following report for the Committee of the Whole Senate:

C.S.S.B. 800 (Read first time)

Senator Farabee submitted the following report for the Committee on State Affairs:

H.B. 1623 (Amended)
H.B. 1815 (Amended)
S.B. 1285
H.B. 847 (Amended)
C.S.S.B. 1100 (Read first time)
H.B. 1214
H.B. 790 (Amended)
H.B. 396
H.B. 2176
H.B. 2098
H.B. 1719
H.B. 1369
H.B. 791
H.B. 683
S.B. 1272
C.S.S.B. 699 (Read first time)
C.S.H.B. 1705 (Read first time)

Senator Brooks submitted the following report for the Committee on Human Resources:

H.B. 622
H.B. 2264
S.B. 1274
H.B. 1297

Senator Uribe, Acting Chairman, submitted the following report for the Committee on Human Resources:

H.B. 1774

Senator Harris submitted the following report for the Committee on Economic Development:

H.B. 2053
H.B. 591
H.B. 1572
H.B. 1625 (Amended)
H.B. 764
H.B. 793 (Amended)
C.S.H.B. 11 (Read first time)

Senator Traeger submitted the following report for the Committee on Intergovernmental Relations:

H.B. 2331
H.B. 1301
H.B. 2363
H.B. 1542
H.B. 2305
H.B. 1003
S.B. 1260
H.B. 760 (Amended)
H.B. 2296
H.B. 2371
H.B. 1433
H.B. 1303
H.B. 1152 (Amended)
H.B. 804
C.S.H.B. 1062 (Read first time)
C.S.S.B. 1185 (Read first time)

Senator Santiesteban submitted the following report for the Committee on Natural Resources:

H.B. 2195
H.B. 487
H.B. 1189
H.B. 2375
H.B. 1801
H.B. 1582
H.B. 2102
H.B. 910
H.B. 1335
S.R. 627 (Amended)
H.B. 1480
H.B. 1453
H.B. 1499
H.B. 1278
H.B. 2292
H.B. 675
H.B. 1101
H.B. 2299
H.B. 214 (Amended)
H.B. 2306

H.B. 716
H.B. 2293
H.B. 1291
H.B. 1694
H.C.R. 56
H.B. 2303
H.B. 200
H.B. 2004
H.B. 1853
H.B. 1606
H.B. 1526
H.B. 2329
H.B. 1540
H.B. 1733
H.B. 2372
H.B. 1402
H.B. 1498
H.B. 848
H.B. 2330
H.B. 1311 (Amended)
H.C.R. 156
H.B. 1154
H.B. 2295
C.S.H.B. 1435 (Read first time)
C.S.S.B. 1273 (Read first time)
C.S.H.B. 1234 (Read first time)
H.B. 1434

Senator Santiesteban submitted the following report for the Committee of the Whole Senate:

C.S.H.B. 1400 (Read first time)

Senator McKnight submitted the following report for the Subcommittee on Nominations:

We, your Subcommittee on Nominations, to which were referred the following appointments, have had same under consideration, and beg to report them back to the Senate for final consideration.

To be a Member of the TEXAS BOARD OF CORRECTIONS: Othal E. Brand, Hidalgo County.

To be Members of the TEXAS COMMISSION FOR THE DEAF: Mrs. Beatrice Groginski, Harris County; Mrs. Gayle Lindsey, Travis County.

To be Members of the BOARD OF DIRECTORS - BRAZOS RIVER AUTHORITY: Chester Robert Upham III, Palo Pinto County; William Ansel Prewitt III, Bell County.

To be a Member of the BOARD OF REGENTS - PAN AMERICAN UNIVERSITY: Robert Shepard, Cameron County.

To be Members of the UPPER COLORADO RIVER AUTHORITY: Harvey Daniel Glass, Jr., Sterling County; Bruce H. Fisher, Tom Green County; Brian Richards, Coke County.

To be a Member of the TEXAS STATE BOARD OF PUBLIC ACCOUNTANCY: William H. Quimby, Dallas County.

To be JUDGE OF THE 280TH JUDICIAL DISTRICT: Thomas R. Phillips, Harris County.

To be JUDGE OF THE 270TH JUDICIAL DISTRICT: Tom White, Harris County.

To be JUDGE OF THE 269TH JUDICIAL DISTRICT: Alvin Louis Zimmerman, Harris County.

To be JUDGE OF THE 281ST JUDICIAL DISTRICT: Louis M. Moore, Harris County.

To be JUDGE OF THE 267TH JUDICIAL DISTRICT: Marion M. Lewis, Victoria County.

To be a Member of the BOARD OF DIRECTORS - NUECES RIVER AUTHORITY: Stevan R. Gallegos, Medina County.

To be JUDGE OF THE 282ND JUDICIAL DISTRICT: Kelly Wayne Loving, Dallas County.

To be JUDGE OF THE 283RD JUDICIAL DISTRICT: Morris Jackson Hampton, Dallas County.

To be a Member of the ADVISORY COUNCIL ON SMALL BUSINESS ASSISTANCE: Mrs. Martha James Boysen, Travis County.

To be a Member of the BOARD OF DIRECTORS - BRAZOS RIVER AUTHORITY: James Jefferson Gibson, King County.

To be a Member of the BOARD OF TRUSTEES - EMPLOYEES RETIREMENT SYSTEM OF TEXAS (appointed by Speaker Clayton): Dr. B. W. Armistead, Lamb County.

To be PRESIDING JUDGE OF THE 9TH ADMINISTRATIVE JUDICIAL DISTRICT: Eugene Elkin Jordan, Potter County.

To be a Member of the COMMISSION ON JAIL STANDARDS: Mary Elizabeth Logan (Amber) Cree, Taylor County.

To be a Member of the TEXAS BOARD OF LICENSURE FOR NURSING HOME ADMINISTRATORS: Dr. Ed Lefeber, Galveston County.

PENDING BEFORE THE SENATE:

To be a Member of the BOARD OF DIRECTORS - TEXAS TURNPIKE AUTHORITY: Jack Taylor Dulworth, Harris County.

NOTICE OF CONSIDERATION OF NOMINATIONS

Senator McKnight gave notice that he would tomorrow at the conclusion of Morning Call submit to the Senate for consideration nominations to agencies, boards and commissions of the State.

BILLS AND RESOLUTION SIGNED

The President announced the signing in the presence of the Senate, after the caption had been read, the following enrolled bills and resolution:

S.B. 1159
S.B. 1020
S.B. 910
S.B. 665
S.C.R. 122
S.B. 625
S.B. 5

SENATE BILLS AND RESOLUTIONS ON FIRST READING

On motion of Senator Truan and by unanimous consent, the following bills and resolutions were introduced, read first time and referred to the Committee indicated:

S.C.R. 123 by Truan Administration
Granting Gwendolyn P. Johnson permission to sue the State.

S.C.R. 124 by Truan Administration
Granting Estefana S. Peters permission to sue the State.

S.B. 1286 by Parker Intergovernmental Relations
Authorizing the sale and conveyance or trade of certain land in Jefferson County by the Texas Department of Mental Health and Mental Retardation; and declaring an emergency.

S.B. 1287 by Uribe State Affairs
Relating to the citizenship requirements for certain alcoholic beverage permittees.

S.B. 1288 by Brown Intergovernmental Relations
Relating to the creation of seawall commissions in coastal counties.

HOUSE BILLS AND RESOLUTIONS ON FIRST READING

The following bills and resolutions received from the House were read the first time and referred to the Committee indicated:

H.J.R. 7, To Committee on State Affairs.
H.J.R. 38, To Committee on Finance.
H.J.R. 77, To Committee on Natural Resources.
H.J.R. 81, To Committee on Finance.
H.J.R. 111, To Committee on Education.
H.B. 13, To Committee on Intergovernmental Relations.
H.B. 340, To Committee on Jurisprudence.
H.B. 369, To Committee on Jurisprudence.
H.B. 389, To Committee on Education.
H.B. 698, To Committee on Jurisprudence.
H.B. 752, To Committee on Jurisprudence.
H.B. 837, To Committee on State Affairs.

H.B. 876, To Committee on Jurisprudence.
H.B. 1166, To Committee on Jurisprudence.
H.B. 1282, To Committee on Finance.
H.B. 1451, To Committee on Economic Development.
H.B. 1475, To Committee on Jurisprudence.
H.B. 1529, To Committee on State Affairs.
H.B. 1933, To Committee on State Affairs.
H.B. 1939, To Committee on Economic Development.
H.B. 2089, To Committee on Economic Development.
H.B. 2122, To Committee on Natural Resources.
H.B. 2129, To Committee on State Affairs.
H.B. 2148, To Committee on Economic Development.
H.B. 2236, To Committee on State Affairs.
H.B. 2335, To Committee on Economic Development.

(President Pro Tempore Traeger in Chair)

SENATE RESOLUTION 707

Senator Truan offered the following resolution:

S.R. 707, Extending congratulations to the American Red Cross on the 100th anniversary of its founding and expressing gratitude to its volunteers.

The resolution was read and was adopted.

GUESTS PRESENTED

Senator Truan presented the following representatives of the Red Cross: George Hill, Executive Director; Russell Painton, State Board; Ms. Alice Scarbrough, Chairman, Centennial Committee; and Lalo Campos, State Board.

These guests were welcomed and presented enrolled copies of Senate Resolution 707 by the President.

VOTE ON FINAL PASSAGE OF HOUSE BILL 2333 RECONSIDERED

On motion of Senator Wilson and by unanimous consent, the vote by which H.B. 2333 was finally passed was reconsidered.

Question - Shall H.B. 2333 be finally passed?

Senator Wilson offered the following amendment to the bill:

Amend H.B. 2333 as follows:

- (1) On page 1, strike the underlined phrase that begins after "year" on line 21 and ends before the bracket on line 24.
- (2) On page 1, strike the underlined phrase that begins after "year" on line 27 and ends before the bracket on line 30.
- (3) On page 1, line 32, strike "the tax rate for the preceding year and".
- (4) On page 1, line 46, strike "and".
- (5) On page 1, line 53, strike the period and substitute "; and", and insert a new subdivision to read as follows:

(6) a statement that the market values and assessed values for the preceding and current years do not reflect the amount of value deducted because of residence homestead exemptions or other partial exemptions.

The amendment was read and was adopted.

Senator Wilson offered the following amendment to the bill:

Amend **H.B. 2333** by adding a new Section 3 to read as follows and renumbering sections accordingly:

SECTION 3. This Act does not apply to a taxing unit that has delivered notices of reappraisal on or before the effective date of this Act.

The amendment was read and was adopted.

On motion of Senator Wilson and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was again finally passed by the following vote: Yeas 31, Nays 0.

SENATE BILL 191 WITH HOUSE AMENDMENTS

Senator Brooks called **S.B. 191** from the President's table for consideration of the House amendments to the bill.

The President Pro Tempore laid the bill and the House amendments before the Senate.

Committee Amendment No. 1 - Madla

Amend **S.B. 191** by adding the following phrase after the comma following the word "facility" on Page 3, Line 13:

"family planning clinics which perform ambulatory surgical procedures;"

Committee Amendment No. 2 - London

Amend Section 11 of **S.B. 191** by striking subsection (d) on page 10, lines 25-27, and page 11, lines 1-7, and substituting in lieu thereof the following:

"(d) The commission by rule shall define and determine the terms and conditions under which a project comes within the meaning of [Subdivisions (1) (5) of Subsection (a) of] this section. In this regard, the commission by rule shall exempt, to the extent permitted by federal law, the acquisition of major medical equipment to be used solely for research, the offering of an institutional health service solely for research, or the obligation of capital expenditures solely for research. In addition, the commission shall promulgate rules for determining the costs and acquiring [of modifying] facilities or equipment if facilities or equipment are leased or donated."

The amendments were read.

Senator Brooks moved to concur in the House amendments.

The motion prevailed.

SENATE BILL 323 WITH HOUSE AMENDMENT

Senator Farabee called **S.B. 323** from the President's table for consideration of the House amendment to the bill.

The President Pro Tempore laid the bill and the House amendment before the Senate.

Committee Amendment No. 1 - Blythe

Amend **S.B. 323** by adding a new subsection (g) page 9 and renumbering subsequent sections as follows:

(g) Persons under 60 years of age who receive a disability retirement benefit shall annually submit a report of their earnings to the retirement system. The retirement system shall examine these reports and may require at any time that a disability retiree, who in the opinion of the State Board of Trustees has reported excessive earnings, shall undergo a medical examination under subsection (e) of this section to determine whether the retiree should continue to receive a disability benefit. The State Board of Trustees may adopt rules establishing limits on the annual earnings of disability retirees and such other rules as are necessary to administer this section. The limitations on employment after retirement in Section 3.37 of this chapter shall apply to disability retirees.

The amendment was read.

Senator Farabee moved to concur in the House amendment.

The motion prevailed by the following vote: Yeas 31, Nays 0.

(President in Chair)

CONFERENCE COMMITTEE ON HOUSE BILL 1421

Senator Mengden called from the President's table for consideration at this time, the request of the House for a Conference Committee to adjust the differences between the two Houses on **H.B. 1421** and moved that the request be granted.

The motion prevailed.

The President asked if there were any motions to instruct the Conference Committee on **H.B. 1421** before appointment.

There were no motions offered.

Accordingly, the President announced the appointment of the following conferees on the part of the Senate on the bill: Senators Mengden, Chairman; Parker, Wilson, Short, Kothmann.

**MOTION TO ADOPT
CONFERENCE COMMITTEE REPORT ON HOUSE BILL 246**

Senator Snelson called from the President's table the Conference Committee Report on **H.B. 246**. (The Conference Committee Report having been filed with the Senate and read on Friday, May 15, 1981)

Senator Snelson moved that the Conference Committee Report be adopted.

Senator Snelson withdrew his motion to adopt the Conference Committee Report.

SENATE BILL 1237 WITH HOUSE AMENDMENTS

Senator Ogg called **S.B. 1237** from the President's table for consideration of the House amendments to the bill.

The President laid the bill and the House amendments before the Senate.

Committee Amendment No. 1 - Edwards

Amend **S.B. 1237** as follows:

By adding Subsection (g) to Article 2, Section 1 to read as follows:

"(g) Revenue received under this section not in excess of 4% may be used by the city as provided by Section 3c of this Act."

Floor Amendment No. 1 - Polk

Amend **S.B. 1237** by adding the following between "census" and the period on line 11, page 1:

"and to counties that border the Republic of Mexico"

Floor Amendment No. 2 - Polk

Amend **S.B. 1237** by Ogg by deleting the word "and" on line 1, page 5 and by adding a new subsection 3 in Section 6 after the word "article" on line 9 to read as follows:

" , and for those counties bordering the country of Mexico, advertising for general promotion and tourist advertising of the country and its vicinity and conducting a solicitation and operating program to attract conventions and visitors either by the county or through contracts with persons or organizations selected by the county".

Floor Amendment No. 3 - McLeod

Amend **S.B. 1237** by renumbering Article 3 as Article 4 and adding a new Article 3 to read as follows:

ARTICLE 3

SECTION 1. Chapter 63, Acts of the 59th Legislature, Regular Session, 1965, as amended (Article 1269j-4.1, Vernon's Texas Civil Statutes), is amended by adding Section 3f to read as follows

Sec. 3f. (a) In this section, "eligible coastal city" means a home-rule city that borders on the Gulf of Mexico and that has a population of less than 75,000, according to the most recent federal census. The definitions contained in Section 3d of this Act apply to this section.

(b) In lieu of the taxes authorized by Section 3a of this Act, an eligible coastal city may levy by ordinance on the cost of occupancy of any sleeping room furnished by any hotel, in which the cost of occupancy is \$2 or more a day, a tax not to exceed seven percent of the consideration paid by the occupant of the sleeping room to the hotel.

(c) A city that levies and collects an occupancy tax authorized by this section may pledge a portion of the revenue equal to not more than one percent of the cost of the occupancy of hotel rooms to the payment of the bonds which the city may issue pursuant to the provisions of Section 3 of this Act. The city is authorized to establish, acquire, lease as lessee or lessor, purchase, construct, improve, enlarge, equip, repair, operate, or maintain (any or all) public improvements such as civic centers, civic center buildings, auditoriums, exhibition halls, and coliseums that serve the purpose of attracting visitors and tourists to the city, and to establish, acquire, lease as lessee or lessor, purchase, construct, improve, enlarge, equip, repair, operate, or maintain (any or all) structures, parking areas, or facilities located at or in the immediate vicinity of these public improvements to be used in connection with the public improvements for off-street parking or storage of motor vehicles or other conveyances. Any lease under this subsection shall be on the terms and conditions the city deems appropriate.

(d) If the tax authorized by this section is levied by the city at a rate of four percent or more, an amount of revenue equal to at least three percent of the cost of the occupancy of hotel rooms shall be reserved for the purpose of advertising and conducting solicitation programs to acquaint potential users with public meeting and convention facilities and for promotion of tourism and advertising of the city and its vicinity either by the city or through contract with persons or organizations selected by the city.

(e) If the tax authorized by this section is levied by the city at a rate of five percent or more, an amount of revenue equal to at least one percent of the cost of the occupancy of hotel rooms shall be reserved for beach patrol, life guard services, and marine water safety under the provisions of Senate Bill 713, Acts of the 67th Legislature, Regular Session, 1981.

(f) If the tax authorized by this section is levied by the city at a rate of six percent or more, an amount of revenue equal to at least one percent of the cost of occupancy of hotel rooms shall be reserved for public beach cleaning funds for use as matching funds for state funds available to clean and maintain public beaches.

(g) This section does not permit the impairment of any bonds issued under the provisions of this Act and all revenue previously pledged to the payment of those bonds shall continue to be reserved for the payment of the principal and interest on those bonds.

Floor Amendment No. 4 - Allee

Amend S.B. 1237 as follows:

- (1) On page 12, line 18, strike "shall" and substitute "may".
- (2) On page 12, line 23, add the following between "therewith" and the period: "but only if the pledging of those revenues for those purposes is approved by a majority vote of the qualified electors of the city voting in an election held on the issue"

The amendments were read.

Senator Ogg moved that the Senate do not concur in the House amendments, but that a Conference Committee be appointed to adjust the differences between the two Houses on the bill.

The motion prevailed.

The President asked if there were any motions to instruct the Conference Committee on **S.B. 1237** before appointment.

There were no motions offered.

The President announced the appointment of the following conferees on the part of the Senate on the bill: Senators Ogg, Chairman; Traeger, Parker, Harris, Santiesteban.

**COMMITTEE SUBSTITUTE SENATE BILL 800
AND COMMITTEE SUBSTITUTE HOUSE BILL 1400
SET AS SPECIAL ORDER**

Senator Ogg moved that **C.S.S.B. 800** and **C.S.H.B. 1400** be set as Special Order for 2:00 o'clock p.m. tomorrow.

The motion prevailed by the following vote: Yeas 28, Nays 3.

Yeas: Blake, Brooks, Brown, Caperton, Doggett, Farabee, Glasgow, Harris, Howard, Jones, Kothmann, Mauzy, McKnight, Meier, Mengden, Ogg, Parker, Richards, Santiesteban, Sarpalius, Short, Snelson, Traeger, Truan, Uribe, Vale, Williams, Wilson.

Nays: Andujar, Leedom, Travis.

MESSAGE FROM THE HOUSE

House Chamber
May 21, 1981

HONORABLE W. P. HOBBY
PRESIDENT OF THE SENATE

Sir: I am directed by the House to inform the Senate that the House has passed the following:

S.B. 1033, Relating to minimum shrimp size restrictions in outside water.

S.B. 766, Providing for the incorporation, regulation, administration, and dissolution of not for profit health facilities development corporation. (With amendment)

The House concurred in Senate amendments to **H.B. 1368** by record vote of 136 Ayes, 0 Nays, 1 Present-not voting.

H.B. 1112, Relating to the creation of a Department of Aging.

H.B. 1197, Providing for fees for service and support and maintenance of mentally retarded persons.

Respectfully,

BETTY MURRAY, Chief Clerk
House of Representatives

HOUSE BILL 1208 ON SECOND READING

On motion of Senator Traeger and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 1208, Providing that investment securities shall be eligible and lawful security for all deposits of public funds.

The bill was read second time.

Senator Traeger offered the following committee amendment to the bill:

Amend **H.B. 1208**, Section 2, by adding the following language between the words "securities" and "shall":

"or any ownership or beneficial interest therein"

The committee amendment was read and was adopted.

On motion of Senator Traeger and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading.

HOUSE BILL 1208 ON THIRD READING

Senator Traeger moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **H.B. 1208** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

SENATE RULE 103 SUSPENDED

On motion of Senator Traeger and by unanimous consent, Senate Rule 103 was suspended in order that the Committee on Intergovernmental Relations might consider **S.B. 1286** today.

HOUSE JOINT RESOLUTION 117 ON SECOND READING

On motion of Senator Caperton and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.J.R. 117, Proposing a constitutional amendment authorizing the Commissioner of the General Land Office to issue patents for certain public free school fund land.

The resolution was read second time.

Senator Caperton offered the following amendment to the resolution:

Amend **H.J.R. 117** by replacing the first sentence of SECTION 2 with the following:

“This proposed constitutional amendment shall be submitted to the voters at an election to be held on November 2, 1982.”

The amendment was read and was adopted.

On motion of Senator Caperton and by unanimous consent, the caption was amended to conform to the body of the resolution as amended.

The resolution as amended was passed to third reading.

HOUSE JOINT RESOLUTION 117 ON THIRD READING

Senator Caperton moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that H.J.R. 117 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The resolution was read third time and was passed by the following vote: Yeas 31, Nays 0.

COMMITTEE SUBSTITUTE SENATE BILL 721 ON SECOND READING

On motion of Senator McKnight and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

C.S.S.B. 721, Relating to the slaughter of horses; providing a penalty.

The bill was read second time and was passed to engrossment.

COMMITTEE SUBSTITUTE SENATE BILL 721 ON THIRD READING

Senator McKnight moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that C.S.S.B. 721 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed.

RECESS

On motion of Senator Mauzy the Senate at 12:05 o'clock p.m. took recess until 2:00 o'clock p.m. today.

AFTER RECESS

The Senate met at 2:00 o'clock p.m. and was called to order by the President.

BILL SIGNED

The President announced the signing in the presence of the Senate, after the caption had been read, the following enrolled bill:

S.B. 1033**MESSAGE FROM THE HOUSE**

House Chamber
May 21, 1981

HONORABLE W. P. HOBBY
PRESIDENT OF THE SENATE

Sir: I am directed by the House to inform the Senate that the House has passed the following:

H.B. 28, Relating to payment for accrued state sick leave to public school employees.

H.B. 118, Relating to hazardous duty pay for certain law enforcement personnel employed by the state.

H.B. 306, Relating to a survey of state employees about their desires to have a dental insurance plan.

H.B. 472, Relating to a disannexation and municipal incorporation procedure for resident of certain areas annexed by a home-rule city.

H.B. 514, Relating to posting of notice of meetings of certain governmental bodies.

H.B. 542, Relating to the composition and operations of the Sunset Advisory Commission.

H.B. 1687, Relating to an information service provided to the legislature and the governor by the faculty and administrators of institutions of higher education.

H.B. 141, Relating to designation of Prairie View A&M University as being established under Article VII, Section 14, of the Texas Constitution.

H.B. 2009, Relating to the enforcement of certain vehicle weight limitations.

Respectfully,

BETTY MURRAY, Chief Clerk
House of Representatives

RECESS

On motion of Senator Brooks the Senate at 2:04 o'clock p.m. took recess until 3:00 o'clock p.m. today.

AFTER RECESS

The Senate met at 4:37 o'clock p.m. and was called to order by the President.

LEAVE OF ABSENCE

Senator Andujar was granted leave of absence for the remainder of today on account of important business on motion of Senator Mengden.

(President Pro Tempore Traeger in Chair)

**MOTION TO PLACE
COMMITTEE SUBSTITUTE SENATE BILL 477 ON SECOND READING**

Senator Truan moved to suspend the regular order of business to take up for consideration at this time:

C.S.S.B. 477, Relating to bilingual education and special language programs in public schools.

Question - Shall the regular order be suspended?

MESSAGE FROM THE HOUSE

House Chamber
May 21, 1981

HONORABLE W. P. HOBBY
PRESIDENT OF THE SENATE

Sir: I am directed by the House to inform the Senate that the House has passed the following:

H.B. 510, Relating to the election of members of the board of trustees of certain school districts from single-member trustee districts.

H.B. 991, Relating to speed limits of trains traveling through municipalities.

H.B. 697, Relating to the imposition, collection, administration, civil and criminal enforcement, and allocation of motor fuel taxes.

H.B. 958, Relating to the creation or reorganization of certain judicial districts and to the creation, duties, and compensation of prosecuting attorneys for certain districts.

H.B. 2233, Relating to regulation of commercial, industrial, residential, and all other types of condominiums.

Respectfully,

BETTY MURRAY, Chief Clerk
House of Representatives

**CONFERENCE COMMITTEE REPORT
HOUSE BILL 1421**

Senator Mengden submitted the following Conference Committee Report:

Austin, Texas
May 21, 1981

Honorable William P. Hobby
President of the Senate

Honorable Bill Clayton
Speaker of the House of Representatives

Sir:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **H.B. 1421** have met and had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

MENGDEN
PARKER
SHORT
WILSON
KOTHMANN
On the part of the Senate

LEWIS
BOCK
AGNICH
SAUNDERS
TURNER
On the part of the House

The Conference Committee Report was read and was filed with the Secretary of the Senate.

REPORTS OF STANDING COMMITTEES

By unanimous consent, Senator Traeger submitted the following report for the Committee on Intergovernmental Relations:

H.B. 1157 (Amended)
H.B. 2099
S.B. 1286
H.B. 2317
H.B. 1624
H.B. 1797

Senator Mauzy submitted the following report for the Committee on Jurisprudence:

H.B. 360 (Amended)

Senator Vale objected to the submission of the report for the Committee on Jurisprudence out of Morning Call.

The report for the Committee on Jurisprudence was withdrawn.

SENATE PAGES EXCUSED

On motion of Senator Mauzy and by unanimous consent, the Senate Pages were excused for the remainder of today.

COMMITTEE SUBSTITUTE SENATE BILL 477 ON SECOND READING

The Senate resumed consideration of C.S.S.B. 477 on its second reading and passage to engrossment with a motion by Senator Truan to suspend the regular order.

Senator Truan resumed explanation of C.S.S.B. 477.

Question - Shall the regular order be suspended?

The motion to suspend regular order prevailed by the following vote: Yeas 22, Nays 8.

Yeas: Brooks, Brown, Caperton, Doggett, Harris, Jones, Kothmann, Mauzy, McKnight, Meier, Ogg, Parker, Richards, Santiesteban, Sarpalius, Short, Snelson, Traeger, Truan, Uribe, Vale, Wilson.

Nays: Blake, Farabee, Glasgow, Howard, Leedom, Mengden, Travis, Williams.

Absent-excused: Andujar.

The bill was read second time.

FLOOR PRIVILEGES GRANTED TO CONSULTANTS

On motion of Senator Truan and by unanimous consent, floor privileges were granted to consultants to be seated at Senator Truan's and Senator Snelson's desk.

Senator Truan offered the following amendment to the bill:

Amend C.S.S.B. 477 by striking all below the enacting clause and substituting in lieu thereof the following:

SECTION 1. Subchapter L, Chapter 21, Texas Education Code, as amended, is amended to read as follows:

**"SUBCHAPTER L. BILINGUAL EDUCATION AND
SPECIAL LANGUAGE PROGRAMS**

"Section 21.451. STATE POLICY. English is the basic language of the State of Texas. Public schools are responsible for providing full opportunity for

all students to become competent in speaking, reading, writing, and comprehending the English language. The legislature finds that there are large numbers of students ~~[children]~~ in the state who come from environments where the primary language is other than English. Experience has shown that public school classes in which instruction is given only in English are often inadequate for the education of these students ~~[children whose native tongue is another language]~~. The legislature recognizes that the mastery of basic English language skills is a prerequisite for effective participation in the state's educational program. The legislature believes that ~~[a compensatory program of]~~ bilingual education and special language programs can meet the needs of these students ~~[children]~~ and facilitate their integration into the regular school curriculum. Therefore, pursuant to the policy of the state to insure equal educational opportunity to every student ~~[child]~~, and in recognition of the educational needs of students ~~[children]~~ of limited English proficiency ~~[English-speaking ability]~~, it is the purpose of this subchapter to provide for the establishment of bilingual education and special language programs in the public schools and to provide supplemental financial assistance to help local school districts meet the extra costs of the programs.

"Section 21.452. DEFINITIONS. In this subchapter the following words have the indicated meanings:

"(1) 'Agency' means the Central Education Agency.

"(2) 'Board' means the governing board of a school district.

"(3) 'Students ~~[Children]~~ of limited English proficiency ~~[English-speaking ability]~~' means students ~~[children]~~ whose primary language ~~[native tongue]~~ is ~~[a language]~~ other than English and whose English language skills are such that the students ~~[who]~~ have difficulty performing ordinary classwork in English.

"(4) 'Parent' means the parent(s) or legal guardian(s) of the student.

"Section 21.453. ESTABLISHMENT OF BILINGUAL EDUCATION AND SPECIAL LANGUAGE PROGRAMS. (a) The State Board of Education shall adopt rules establishing a procedure for identifying school districts that are required to offer bilingual education and special language programs in accordance with this subchapter.

"(b) Within the first four weeks following the first day of school, the language proficiency assessment committee established under Section 21.462 shall determine and report to the ~~[The]~~ governing board of the ~~[each]~~ school district ~~[shall determine not later than the first day of March, under regulations prescribed by the State Board of Education,]~~ the number of students ~~[school-age children]~~ of limited English proficiency on each campus ~~[English-speaking ability within the district]~~ and shall classify them according to the language in which they possess ~~[a]~~ primary proficiency ~~[speaking ability]~~. The governing board shall report that information to the agency before the first day of November each year.

"(c) ~~[(b)]~~ Each school district which has an enrollment of 20 or more students ~~[children]~~ of limited English proficiency ~~[English-speaking ability]~~ in any language classification in the same grade level ~~[during the preceding scholastic year, and which does not have a program of bilingual instruction which accomplishes the state policy of facilitating integration into the regular school curriculum as set out in Section 21.451 of this article,]~~ shall offer ~~[institute]~~ a ~~[program of]~~ bilingual education or special language program ~~[instruction for the children in each language classification in kindergarten, first grade, and second grade by the 1975-76 school year and also in the third grade by the 1976-77 school year. Bilingual instruction may be offered in the fourth and fifth grades for students who have not progressed sufficiently to participate in the regular school curriculum. Any bilingual program beyond the fifth grade]~~

~~shall be at the expense of the respective local school district. The board may establish a program with respect to a language classification with less than 20 children].~~

“(d) Each district that is required to offer bilingual education and special language programs under this section shall offer the following for students of limited English proficiency:

“(1) bilingual education in kindergarten through the elementary grades;

“(2) bilingual education, instruction in English as a second language, or other transitional language instruction approved by the agency in post-elementary grades through grade 8; and

“(3) instruction in English as a second language in grades 9-12.

“(e) If a program other than bilingual education must be used in kindergarten through the elementary grades, documentation for the exception must be filed with and approved by the commissioner of education, pursuant to the rules of the State Board of Education.

“(f) An application for an exception may be filed with the commissioner of education when an individual district is unable to hire a sufficient number of endorsed bilingual teachers to staff the required program. The exception must be accompanied by:

“(1) documentation showing that the district has taken all reasonable affirmative steps to secure endorsed bilingual teachers and has failed;

“(2) documentation showing that the district has affirmative hiring policies and procedures consistent with the need to serve limited English proficiency students;

“(3) documentation showing that, on the basis of district records, no teacher with a bilingual endorsement or emergency credentials has been unjustifiably denied employment by the district within the past 12 months; and

“(4) a plan detailing specific measures to be used by the district to eliminate the conditions that created the need for an exception.

“(g) An exception shall be granted under Subsection (f) of this section on an individual district basis and is valid for only one year. Application for an exception a second or succeeding year must be accompanied by the documentation set forth in Subdivisions (1), (2), (3), and (4) of Subsection (f) of this section.

“(h) During the period of time for which the school district is granted an exception under Subsection (f) of this section, it must use alternative methods approved by the commissioner of education, pursuant to the rules of the State Board of Education, to meet the needs of its students of limited English proficiency such as, but not limited to, the hiring of teaching personnel on a bilingual emergency permit.

“Section 21.454. PROGRAM CONTENT; METHOD OF INSTRUCTION. (a) The bilingual education program established by a school district shall be a full-time program of instruction;

“(1) in all subjects required by law or by the school district, which shall be given in the primary [native] language of the students [children] of limited English proficiency [English speaking ability] who are enrolled in the program, and in the English language;

“(2) in the comprehension, speaking, reading, and writing of the primary [native] language of the students [children] of limited English proficiency [English speaking ability] who are enrolled in the program, and in the comprehension, speaking, reading, and writing of the English language; and

“(3) in the history and culture associated with the primary [native] language of the students [children] of limited English proficiency [English speaking ability] who are enrolled in the program, and in the history and culture of the United States.

"(b) The program of instruction in English as a second language established by a school district shall be a program of intensive instruction in English from teachers trained in recognizing and dealing with language differences. The program shall be designed to consider the students' learning experiences and shall incorporate the cultural aspects of the students' backgrounds.

"(c) In [~~predominantly nonverbal~~] subjects[~~;~~] such as art, music, and physical education, students [~~children~~] of limited English proficiency [~~English-speaking ability~~] shall participate fully with [~~their~~] English-speaking students [~~contemporaries~~] in regular classes provided in the subjects.

"(d) [~~(e)~~] Elective courses included in the curriculum may be taught in a language other than English.

"(e) [~~(d)~~] Each school district shall insure to students [~~children~~] enrolled in the program a meaningful opportunity to participate fully with other students [~~children~~] in all extracurricular activities.

"(f) The State Board of Education shall establish a limited number of pilot programs for the purpose of examining alternative methods of instruction in bilingual education and special language programs.

"(g) Districts approved to establish pilot programs as required in Subsection (f) of this section shall be allocated an amount per student which is not in excess of the amount per student allocated to districts with approved bilingual education and special language programs as outlined in this subchapter.

"Section 21.455. ENROLLMENT OF STUDENTS [~~CHILDREN~~] IN PROGRAM. (a) The State Board of Education by rule shall adopt standardized criteria for the identification, assessment, and classification of students of limited English proficiency eligible for entry into the program or exit from the program. The parent must be notified of a student's entry into the program, exit from the program, or placement within the program. The parent may appeal the decision under Section 21.463 of this code [~~Every school-age child of limited English-speaking ability residing within a school district required to provide a bilingual program for his classification shall be enrolled in the program for a period of three years or until he achieves a level of English language proficiency which will enable him to perform successfully in classes in which instruction is given only in English, whichever first occurs~~]. The criteria may include, but are not limited to, the following:

"(1) results of a home language survey conducted within four weeks of each student's enrollment in order to determine the language normally used in the home and the language normally used by the student, conducted in English and the home language, signed by the student's parents if in kindergarten through grade 8 or by the student if in grades 9 through 12, and kept in the student's permanent folder by the language proficiency assessment committee;

"(2) the results of an agency-approved English language proficiency test administered to all students identified through the home survey as normally speaking a language other than English to determine the level of English language proficiency, with students in kindergarten or grade 1 being administered an oral English proficiency test and students in grades 2 through 12 being administered an oral and written English proficiency test; and

"(3) the results of an agency-approved proficiency test in the primary language administered to all students identified under Subdivision (2) of this subsection as being of limited English proficiency to determine the level of primary language proficiency, with students in kindergarten or grade 1 being administered an oral primary language proficiency test and students in grades 2 through 12 being administered an oral and written primary language proficiency test.

“(b) Tests under Subsection (a) of this section should be administered by professionals or paraprofessionals with the appropriate English and primary language skills and the training required by the test publisher.

“(c) The language proficiency assessment committee may classify a student as limited English proficiency if one or more of the following criteria are met:

“(1) the student’s ability in English is so limited or the student is so handicapped that assessment procedures cannot be administered;

“(2) the student’s score or relative degree of achievement on the agency-approved English proficiency test is below the levels established by the agency as indicative of reasonable proficiency;

“(3) the student’s primary language proficiency score as measured by an agency-approved test is greater than his proficiency in English; or

“(4) the language proficiency assessment committee determines, based on other information such as (but not limited to) teacher evaluation, parental viewpoint, or student interview, that the student’s primary language proficiency is greater than his proficiency in English or that the student is not reasonably proficient in English.

“(d) Within 10 days after the student’s classification as limited English proficiency, the language proficiency assessment committee shall give written notice of the classification to the student’s parent. The notice must be in English and the primary language. The parents of students eligible to participate in the required bilingual education program shall be informed of the benefits of the bilingual education or special language program and that it is an integral part of the school program.

“(e) All records obtained under this section may be retained by the language proficiency assessment committee for documentation purposes.

“(f) The school district may not refuse instruction in a language other than English to a student solely because the student has a handicapping condition.

“(g) With the approval of the school district and a student’s parents, a student who does not have limited English proficiency may also participate in a bilingual education program. The number of participating students who do not have limited English proficiency may not exceed 40 percent of the students enrolled in the program.

~~“(b) A child of limited English-speaking ability enrolled in a program of bilingual education may continue in that program for a period longer than three years with the approval of the school district and the child’s parents or legal guardian.~~

~~“(h) A [e] school district may transfer a student [child] of limited English proficiency [English-speaking ability] out of a [program-in] bilingual education or special language program if the student is able to participate equally in a regular all-English instructional program as determined by:~~

~~“(1) tests administered at the end of each school year to determine the extent to which the student has developed oral and written language proficiency and specific language skills in both the student’s primary language and English;~~

~~“(2) an achievement score at or above the 40th percentile in the reading and language arts sections of an English standardized test approved by the agency; and~~

~~“(3) other indications of a student’s overall progress as determined by, but not limited to, criterion-referenced test scores, subjective teacher evaluation, and parental evaluation [prior to his third year of enrollment in the program unless the parents of the child approve the transfer in writing, and unless the child has received a score on an examination which, in the determination of the agency, reflects a level of English language skills appropriate to his or her grade level].~~

"(i) If later evidence suggests that a student ~~[child]~~ who has been transferred out of a bilingual education or special language program has inadequate English proficiency and achievement, the language proficiency assessment committee may reenroll the student ~~[is still handicapped by an inadequate command of English, he may be re-enrolled]~~ in the program ~~[for a length of time equal to that which remained at the time he was transferred]~~. Classification of students for reenrollment must be based on the criteria required by this section.

~~"(d) No later than 10 days after the enrollment of a child in a program in bilingual education the school district shall notify the parents or legal guardian of the child that the child has been enrolled in the program. The notice shall be in writing in English, and in the language of which the child of the parents possesses a primary speaking ability."~~

"Section 21.456. FACILITIES; CLASSES. (a) Bilingual education and special language programs ~~[Programs in bilingual education, whenever possible,]~~ shall be located in the regular public schools of the district rather than in separate facilities.

"(b) Students ~~[Children]~~ enrolled in bilingual education or a special language ~~[the]~~ program ~~[, whenever possible]~~ shall be placed in classes with other students ~~[children]~~ of approximately the same age and level of educational attainment. The ~~[If children of different age groups or educational levels are combined, the]~~ school district shall insure that the instruction given each student ~~[child]~~ is appropriate to his or her level of educational attainment, and the district shall keep adequate records of the educational level and progress of each student ~~[child]~~ enrolled in the program.

"(c) The maximum student-teacher ratio shall be set by the agency and shall reflect the special educational needs of students ~~[children]~~ enrolled in the programs ~~[of bilingual education]~~.

"Section 21.457. COOPERATION AMONG DISTRICTS. (a) A school district may join with any other district or districts to provide the ~~[programs in]~~ bilingual education and special language programs required ~~[or permitted]~~ by this subchapter. The availability of the programs shall be publicized throughout the affected districts.

"(b) A school district may allow a nonresident student ~~[child]~~ of limited English proficiency ~~[English speaking ability]~~ to enroll in or attend its ~~[program in]~~ bilingual education or special language programs if the student's district of residence provides no appropriate program. The ~~[, and the]~~ tuition for the student ~~[child]~~ shall be paid by the district in which the student ~~[child]~~ resides.

"Section 21.458. PRESCHOOL, ~~[AND]~~ SUMMER SCHOOL, AND EXTENDED TIME PROGRAMS. A school district may establish on a full- or part-time basis preschool, ~~[or]~~ summer school, extended day, or extended week ~~[programs in]~~ bilingual education or special language programs for students ~~[children]~~ of limited English proficiency ~~[English speaking ability]~~ and may join with other districts in establishing the programs. The preschool or summer programs shall not be a substitute for programs required to be provided during the regular school year.

"Section 21.459. BILINGUAL EDUCATION AND SPECIAL LANGUAGE PROGRAM TEACHERS. (a) The State Board of Education shall promulgate rules and regulations governing the issuance of teaching certificates with bilingual education endorsements to teachers who possess a speaking, ~~[and]~~ reading, and writing ability in a language other than English in which bilingual education programs are offered and who meet the general requirements set out in Chapter 13 of this code. The State Board of Education shall also promulgate rules and regulations governing the issuance of teaching

certificates with an endorsement for teaching English as a second language. The agency may issue emergency endorsements in bilingual education and in teaching English as a second language.

"(b) A teacher assigned to a bilingual education program must be appropriately certified by the agency for bilingual education.

"(c) A teacher assigned to an English as a second language or other special language program must be appropriately certified by the agency for English as a second language.

"(d) [(b)] The minimum monthly base pay and increments for teaching experience for a bilingual education teacher or a special language program teacher are the same as for a classroom teacher with an equivalent degree under the Texas State Public Education Compensation Plan. The minimum annual salary for a bilingual education teacher or a special language program teacher is the monthly base salary, plus increments, multiplied by 10, 11, or 12, as applicable.

"(e) The state shall compensate a bilingual education or special language program teacher for participating in a continuing education program which is in addition to the teacher's regular contract. The continuing education program must be designed to gain advanced bilingual education or special language program endorsement or skills.

"(f) The State Board of Education, through the Commission on Standards for the Teaching Profession, and the Coordinating Board, Texas College and University System, shall develop a comprehensive plan for meeting the teacher supply needs created by the programs outlined in this subchapter. The board shall submit a plan, which includes legislative recommendations, to the 68th Legislature in January, 1983.

"Section 21.460. ALLOTMENTS FOR OPERATIONAL EXPENSES AND TRANSPORTATION. (a) To each school district operating an approved bilingual education program there shall be allotted a special allowance in an amount equal to the number of limited English proficiency students enrolled in the bilingual education program multiplied by \$150. A district's bilingual education program allocation may be used for program and [to be determined by the agency for] pupil evaluation, library needs [books], instructional materials and equipment [media], staff development, supplemental staff expenses, and other supplies required for quality instruction. No more than 25 percent of a district's bilingual education program allocation may be used for expenses related to staff development.

"(b) The cost of transporting bilingual education and special language program students from one campus to another within a district or from a sending district to an area vocational school or to an approved post-secondary institution under a contract for instruction approved by the agency [Central Education Agency] shall be reimbursed based on the number of [or] actual miles traveled times the district's official extracurricular travel per mile rate as set by their local board of trustees and approved by the agency [Central Education Agency].

"(c) The Foundation School Fund Budget Committee shall consider all amounts required for the operation of bilingual education and special language programs in estimating the funds needed for purposes of the Foundation School Program.

"[(d) The cost of funding this Act shall, for fiscal years 1974 and 1975, be maintained at the level contained in House Bill 139, 63rd Legislature, Regular Session, 1973.]

"Section 21.461. COMPLIANCE. (a) The legislature recognizes that compliance with this subchapter is an imperative public necessity. Therefore,

pursuant to the policy of the state, the agency shall monitor school district compliance with state rules by inspecting each school district on site at least every three years.

"(b) The areas to be monitored include:

"(1) program content and design;

"(2) program coverage;

"(3) identification procedures;

"(4) classification procedures;

"(5) staffing;

"(6) learning materials;

"(7) testing materials;

"(8) reclassification of students for either entry into regular classes conducted exclusively in English or for reentry into a bilingual education or special language program; and

"(9) activities of the language proficiency assessment committee.

"(c) Not later than the 30th day after the date of an on-site monitoring inspection, the agency shall report its findings to the school district and to the division of accreditation.

"(d) The agency shall notify a school district found to be in noncompliance in writing not later than the 30th day after the date of the on-site monitoring. The district shall take immediate corrective action.

"(e) If a school district fails to or refuses to comply after proper notification, the agency shall apply sanctions, which may include removal of accreditation, loss of foundation school funds, or both.

"Section 21.462. LANGUAGE PROFICIENCY ASSESSMENT COMMITTEES. (a) The State Board of Education by rule shall require districts that are required to offer bilingual education and special language programs to establish a language proficiency assessment committee.

"(b) Each committee shall be composed of members including but not limited to a professional bilingual educator, professional transitional language educator, a parent of a limited English proficiency student, and a campus administrator.

"(c) The language proficiency assessment committee shall:

"(1) review all pertinent information on limited English proficiency students, including the home language survey, the language proficiency tests in English and the primary language, each student's achievement in content areas, and each student's emotional and social attainment;

"(2) make recommendations concerning the most appropriate placement for the educational advancement of the limited English proficiency student after the elementary grades;

"(3) review each limited English proficiency student's progress at the end of the school year in order to determine future appropriate placement;

"(4) monitor the progress of students formerly classified as limited English proficiency who have exited from the bilingual education or special language program and, based on the information, designate the most appropriate placement for the student; and

"(5) determine the appropriateness of an extended program (beyond the regular school) depending on the needs of each limited English proficiency student.

"(d) The State Board of Education by rule may prescribe additional duties for language proficiency assessment committees.

"Section 21.463. APPEALS. A parent of a student enrolled in a district offering bilingual education or special language programs may appeal to the commissioner of education under Section 11.13 of this code if the district fails to

comply with the requirements of law or the rules of the State Board of Education. If the parent disagrees with the placement of the student in the program, he or she may appeal that decision to the local board of trustees. Appeals shall be in accordance with procedures adopted by the State Board of Education consistent with the appeal of contested cases under the Administrative Procedure and Texas Register Act, as amended (Article 6252-13a, Vernon's Texas Civil Statutes).

SECTION 2. This Act takes effect beginning with the 1981-1982 school year.

SECTION 3. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force according to its terms, and it is so enacted.

The amendment was read.

Senator Truan offered the following amendment to the pending amendment:

Amend Floor Amendment No. 1 to C.S.S.B. 477, Section 1, by striking subsection (e) of Section 21.459 and substituting in lieu thereof the following:

"The district shall compensate out of funds appropriated in Section 21.460(a) of this subchapter a bilingual education or special language teacher for participating in a continuing education program which is in addition to the teacher's regular contract. The continuing education program must be designed to gain advanced bilingual education or special language program endorsement or skills."

The amendment to the pending amendment was read.

Senator Snelson offered the following amendment to the amendment to the pending amendment:

Amend Floor Amendment No. 1 to C.S.S.B. 477, Section 21.459, page 11, line 29 by deleting the words "state shall" and inserting the words "district may".

The amendment to the amendment to the pending amendment was read.

Senator Truan moved to table the amendment to the amendment to the pending amendment.

The motion was lost by the following vote: Yeas 8, Nays 20.

Yeas: Doggett, Kothmann, Mauzy, Ogg, Santiesteban, Traeger, Truan, Vale.

Nays: Blake, Brooks, Brown, Caperton, Farabee, Glasgow, Harris, Howard, Jones, Leedom, Meier, Mengden, Parker, Richards, Sarpalius, Short, Snelson, Travis, Williams, Wilson.

Absent: McKnight, Uribe.

Absent-excused: Andujar.

Question recurring on the adoption of the amendment to the amendment to the pending amendment, the amendment to the amendment to the pending amendment was adopted.

RECORD OF VOTES

Senators Truan, Ogg, and Mauzy asked to be recorded as voting "Nay" on the adoption of the amendment to the amendment to the pending amendment.

Question recurring on the adoption of the amendment as amended to the pending amendment, the amendment as amended to the pending amendment was adopted.

Senator Truan offered the following amendment to the pending amendment:

Amend Section 1 of Floor Amendment No. 1 to C.S.S.B. 477 by redesignating subsection (f) on page 12, line 3 to become subsection (g), and adding a new subsection (f) to read as follows:

"(f) The Agency shall be authorized to conduct or contract for teacher training for persons in the acquisition of endorsements in English as a second language. The Agency shall determine the amount required for the implementation of this subsection."

The amendment to the pending amendment was read and was adopted.

Senator Truan offered the following amendment to the pending amendment:

Amend Section 21.460 of Floor Amendment No. 1 to C.S.S.B. 477 as follows:

- (1) Substitute \$100 for \$150 on page 12, line 15.
- (2) Strike the entire sentence that begins "No more than" on page 12, line 20.

The amendment to the pending amendment was read.

Senator Snelson offered the following substitute for the amendment to the pending amendment:

Amend Floor Amendment No. 1 to C.S.S.B. 477 by striking the language in Section 21.460(a) and placing the following:

(a) Under the rules of the State Board of Education, each school district operating an approved bilingual education or special language program shall be allotted a special allowance in an amount equal to the number of limited English proficiency students enrolled in the bilingual education or special language program multiplied by \$50, or a greater amount provided by the General Appropriations Act. A district's bilingual education or special language program allocation may be used for program and pupil evaluation, library needs, instructional materials and equipment, staff development, supplemental staff expenses, and other supplies required for quality instruction.

The substitute for the amendment to the pending amendment was read.

Senator Truan moved to table the substitute for the amendment to the pending amendment.

The motion was lost by the following vote: Yeas 13, Nays 17.

Yeas: Brooks, Doggett, Kothmann, Mauzy, McKnight, Ogg, Parker, Santiesteban, Traeger, Truan, Uribe, Vale, Wilson.

Nays: Blake, Brown, Caperton, Farabee, Glasgow, Harris, Howard, Jones, Leedom, Meier, Mengden, Richards, Sarpalius, Short, Snelson, Travis, Williams.

Absent-excused: Andujar.

Question recurring on the adoption of the substitute for the amendment to the pending amendment, the substitute for the amendment to the pending amendment was adopted by the following vote: Yeas 17, Nays 13.

Yeas: Blake, Brown, Caperton, Farabee, Glasgow, Harris, Howard, Jones, Leedom, Meier, Mengden, Richards, Sarpalius, Short, Snelson, Travis, Williams.

Nays: Brooks, Doggett, Kothmann, Mauzy, McKnight, Ogg, Parker, Santiesteban, Traeger, Truan, Uribe, Vale, Wilson.

Absent-excused: Andujar.

The amendment as substituted to the pending amendment was adopted.

Senator Truan offered the following amendment to the pending amendment:

Amend Section 21.454 of Floor Amendment No. 1 for C.S.S.B. 477 as follows:

(1) In subsection (f), substitute "may" for "shall" between "Education" and "establish" (page 5, line 29).

(2) Reletter subsection (g) as (h) and substitute "allowed" for "required" (page 6, line 2).

(3) Insert the following as subsection (g):

(g) Participation in pilot programs established under this subsection shall:

(1) be on a voluntary basis;

(2) be limited to no more than five percent of a district's total LEP enrollment; and

(3) require parental notification of pupil participation. (page 6, line 26).

The amendment to the pending amendment was read.

On motion of Senator Snelson, the amendment to the pending amendment was tabled by the following vote: Yeas 20, Nays 10.

Yeas: Blake, Brooks, Brown, Caperton, Farabee, Glasgow, Harris, Howard, Jones, Leedom, Meier, Mengden, Richards, Sarpalius, Short, Snelson, Traeger, Travis, Williams, Wilson.

Nays: Doggett, Kothmann, Mauzy, McKnight, Ogg, Parker, Santiesteban, Truan, Uribe, Vale.

Absent-excused: Andujar.

Senator Snelson offered the following amendment to the pending amendment:

Amend Floor Amendment No. 1 to C.S.S.B. 477 by striking subsection (a) of Section 21.454 (page 2, lines 58-70 and page 3, lines 1-3) and substituting the following:

“(a) The bilingual education program established by a school district shall be a ~~[full-time]~~ program of dual-language instruction that provides for learning basic skills

~~[(1) in all subjects required by law or by the school district, which shall be given] in the primary [native] language of the students [children] of limited English proficiency [English-speaking ability] who are enrolled in the program, and that provides for carefully structured and sequenced mastery of [in the] English language skills[-]~~

~~[(2) in the comprehension, speaking, reading, and writing of the native language of the children of limited English speaking ability who are enrolled in the program, and in the comprehension, speaking, reading, and writing of the English language, and~~

~~[(3) in the history and culture associated with the native language of the children of limited English speaking ability who are enrolled in the program, and in the history and culture of the United States].~~

The amendment to the pending amendment was read.

Senator Truan offered the following substitute for the amendment to the pending amendment:

Amend Floor Amendment No. 1 to C.S.S.B. 477, Section 1, by striking subsection (a) of Section 21.454 (page 4, lines 27-32, and page 5, lines 1-10) and substituting the following:

“(a) The bilingual education program established by a school district shall be a full-time program of dual-language instruction that provides for learning basic skills

~~[(1) in all subjects required by law or by the school district, which shall be given] in the primary [native] language of the students [children] of limited English proficiency [English-speaking ability] who are enrolled in the program, and that provides for carefully structured and sequenced mastery of [in the] English language skills[-]~~

~~[(2) in the comprehension, speaking, reading, and writing of the native language of the children of limited English speaking ability who are enrolled in the program, and in the comprehension, speaking, reading, and writing of the English language, and~~

~~[(3) in the history and culture associated with the native language of the children of limited English speaking ability who are enrolled in the program, and in the history and culture of the United States].~~

The program shall be designed to consider the students' learning experiences and shall incorporate the cultural aspects of the students' backgrounds.

The substitute for the amendment to the pending amendment was read and was adopted.

The amendment as substituted to the pending amendment was adopted.

Senator Snelson offered the following amendment to the pending amendment:

Amend Floor Amendment No. 1 to C.S.S.B. 477 by striking SECTION 2 and substituting the following:

SECTION 2. (a) Each district that is identified by the Central Education Agency as a district required to offer special language programs under Subchapter L, Chapter 21, Texas Education Code, as amended by this Act, shall offer the required programs:

- (1) in kindergarten through grade 5 beginning with the 1981-82 school year;
- (2) in grade 6 beginning with the 1982-83 school year;
- (3) in grade 7 beginning with the 1983-84 school year;
- (4) in grade 8 beginning with the 1984-85 school year;
- (5) in grades 9 and 10 beginning with the 1985-86 school year; and
- (6) in grades 11 and 12 beginning with the 1986-87 school year.

(b) The State Board of Education by rule may require implementation of the programs in a grade level for a year earlier than the year in which implementation is required under Subsection (a) of this section.

The amendment to the pending amendment was read.

On motion of Senator Snelson and by unanimous consent, the amendment to the pending amendment was withdrawn.

Senator Leedom offered the following amendment to the pending amendment:

Amend Floor Amendment No. 1 to C.S.S.B. 477, Section 21.455, line 12, by inserting the following between program. and The parent:

A student's entry into the program, or placement within the program must be approved by the student's parents.

The amendment to the pending amendment was read.

Senator Truan moved to table the amendment to the pending amendment.

The motion was lost by the following vote: Yeas 12, Nays 17.

Yeas: Brooks, Caperton, Doggett, Kothmann, Mauzy, Ogg, Parker, Santiesteban, Truan, Uribe, Vale, Williams.

Nays: Blake, Brown, Farabee, Glasgow, Harris, Howard, Jones, Leedom, Meier, Mengden, Richards, Sarpalius, Short, Snelson, Traeger, Travis, Wilson.

Absent: McKnight.

Absent-excused: Andujar.

Senator Vale offered the following substitute for the amendment to the pending amendment:

Amend Floor Amendment No. 1 to C.S.S.B. 477, Section 21.455, line 12, by inserting the following between program. and The parent:

A student's entry into the program, or placement within the program must be approved by the student's parents.

The local school district may appeal the decision of the parent under Section 21.463 of the Code.

The substitute for the amendment to the pending amendment was read and was adopted.

(President in Chair)

Question recurring on the adoption of the amendment as substituted to the pending amendment, the amendment as substituted to the pending amendment was adopted by the following vote: Yeas 17, Nays 12.

Yeas: Blake, Brown, Farabee, Glasgow, Harris, Howard, Jones, Leedom, Meier, Mengden, Richards, Sarpalius, Short, Snelson, Traeger, Travis, Wilson.

Nays: Brooks, Caperton, Doggett, Kothmann, Mauzy, Ogg, Parker, Santiesteban, Truan, Uribe, Vale, Williams.

Absent: McKnight.

Absent-excused: Andujar.

Senator Sarpalius offered the following amendment to the pending amendment:

Amend Floor Amendment No. 1 to C.S.S.B. 477 by striking SECTION 2 and substituting the following:

SECTION 2. (a) Each district that is identified by the Central Education Agency as a district required to offer special language programs under Subchapter L, Chapter 21, Texas Education Code, as amended by this Act, shall offer the required programs:

(1) in kindergarten through grade 5 beginning with the 1981-82 school year;

(2) in grade 6 beginning with the 1982-83 school year;

(3) in grade 7 beginning with the 1983-84 school year;

(4) in grade 8 beginning with the 1984-85 school year;

(5) in grades 9 and 10 beginning with the 1985-86 school year; and

(6) in grades 11 and 12 beginning with the 1986-87 school year.

(b) The State Board of Education by rule may require implementation of the programs in a grade level for a year earlier than the year in which implementation is required under Subsection (a) of this section.

The amendment to the pending amendment was read.

On motion of Senator Sarpalius and by unanimous consent, the amendment to the pending amendment was withdrawn.

Senator Jones offered the following amendment to the pending amendment:

Amend Floor Amendment No. 1 to C.S.S.B. 477, Sec. 21.455 by adding a new subsection (J) to read as follows:

(J) A student of limited English proficiency who is enrolled in a program of bilingual education for four consecutive years during the elementary grades and who has not met the standardized criteria for exit from the program established in subsection (a) may be placed in an alternative transitional language program, such as English as a Second Language, until the student is able to meet the exit criteria.

The amendment to the pending amendment was read.

Senator Truan moved to table the amendment to the pending amendment.

(President Pro Tempore Traeger in Chair)

The motion to table was lost by the following vote: Yeas 13, Nays 16.

Yeas: Brooks, Caperton, Doggett, Kothmann, Mauzy, Ogg, Parker, Santiesteban, Traeger, Truan, Uribe, Valc, Wilson.

Nays: Blake, Brown, Farabee, Glasgow, Harris, Howard, Jones, Leedom, Meier, Mengden, Richards, Sarpalius, Short, Snelson, Travis, Williams.

Absent: McKnight.

Absent-excused: Andujar.

Question recurring on the adoption of the amendment to the pending amendment, the amendment to the pending amendment was adopted by the following vote: Yeas 15, Nays 14.

Yeas: Blake, Brown, Farabee, Harris, Howard, Jones, Leedom, Meier, Mengden, Richards, Sarpalius, Short, Snelson, Travis, Williams.

Nays: Brooks, Caperton, Doggett, Glasgow, Kothmann, Mauzy, Ogg, Parker, Santiesteban, Traeger, Truan, Uribe, Vale, Wilson.

Absent: McKnight.

Absent-excused: Andujar.

(President in Chair)

Senator Mengden offered the following amendment to the pending amendment:

Amend Floor Amendment No. 1 to C.S.S.B. 477 by striking all of Section 2 and substituting the following:

“Section 2. This Act does not become effective until the next school year (beginning in approximately September) after a final judgment is rendered in the court case styled Civil Action 5281, United States, et. al. vs. State of Texas; and, then only if that final judgment requires bilingual education in public

schools in this state beyond the extent required under law effective during the 1980-81 school year."

The amendment to the pending amendment was read.

Senator Sarpalius offered the following amendment to the amendment to the pending amendment:

Amend Amendment No. 15 by adding to said amendment the following:

SECTION 2. Each district that is identified by the Central Education Agency as a district required to offer bilingual education programs under Subchapter L, Chapter 21, Texas Education Code, as amended by this Act, shall offer the required programs:

- (1) in kindergarten through grade 4 beginning with the 1981-82 school year;
- (2) in grade 5 beginning with the 1982-83 school year;
- (3) in grade 6, if required, beginning with the 1983-84 school year.

The amendment to the amendment to the pending amendment was read.

On motion of Senator Sarpalius and by unanimous consent, the amendment to the amendment to the pending amendment was withdrawn.

Question recurring on the adoption of the amendment to the pending amendment, the amendment to the pending amendment failed of adoption by the following vote: Yeas 11, Nays 15.

Yeas: Blake, Brown, Farabee, Howard, Jones, Leedom, Meier, Mengden, Richards, Sarpalius, Travis.

Nays: Brooks, Caperton, Doggett, Kothmann, Mauzy, Ogg, Parker, Santiesteban, Short, Traeger, Truan, Uribe, Vale, Williams, Wilson.

Absent: Glasgow, Harris, McKnight, Snelson.

Absent-excused: Andujar.

Senator Mengden offered the following amendment to the pending amendment:

Amend Floor Amendment No. 1 to C.S.S.B. 477 by adding a second sentence to Section 2 to read as follows:

"If a final judgment in the case styled Civil Action 5281, United States, et. al. vs. State of Texas, holds that bilingual education in public schools in this state is not required beyond the extent provided for by prior law, the provisions of this act expire at the end of the biennium in which the final judgment is rendered."

The amendment to the pending amendment was read.

Question - Shall the amendment to the pending amendment be adopted?

MESSAGE FROM THE HOUSE

House Chamber
May 21, 1981

HONORABLE W. P. HOBBY
PRESIDENT OF THE SENATE

Sir: I am directed by the House to inform the Senate that the House has passed the following:

H.B. 1013, Relating to providing uniform jurisdiction, terms of court, qualifications of judges, salaries of judges, retirement benefits of judges, court officials, personnel and facilities, transfer of cases and benches, providing appropriation.

Respectfully,

BETTY MURRAY, Chief Clerk
House of Representatives

HOUSE BILL 360 SET AS SPECIAL ORDER

Senator Howard moved that **H.B. 360** be set as Special Order for 10:00 o'clock a.m. Saturday, May 23, 1981.

Senator Vale raised the Point of Order that a motion to set a bill for Special Order when not in Morning Call was not a proper motion.

The President overruled the Point of Order.

Senator Vale raised the Point of Order that a bill not reported from committee to the Senate could not be set as Special Order.

The President ruled the committee report on the bill had been filed with the Senate and there was no rule prohibiting further action on the bill.

Senator Mauzy inquired what vote was required to set the bill as Special Order.

The President ruled that Senate Rule 14 provides for an affirmative vote of two-thirds of the Members present.

The motion to set **H.B. 360** as Special Order prevailed by the following vote: Yeas 21, Nays 6.

Yeas: Blake, Brown, Caperton, Farabee, Glasgow, Howard, Jones, Kothmann, Leedom, Meier, Mengden, Ogg, Parker, Richards, Sarpalius, Short, Snelson, Traeger, Travis, Williams, Wilson.

Nays: Doggett, Mauzy, Santiesteban, Truan, Uribe, Vale.

Absent: Brooks, Harris, McKnight.

Absent-excused: Andujar.

MEMORIAL RESOLUTIONS

S.R. 713 - By Farabee: Memorial resolution for Mildred E. Donnell.

S.R. 716 - By Glasgow: Memorial resolution for J. O. Cox.

WELCOME AND CONGRATULATORY RESOLUTIONS

H.C.R. 200 - (Farabee) Commemorating the arrival of the railroad in Big Spring and Howard County.

S.R. 708 - By Glasgow: Extending welcome to the students from the Three-Way School District.

S.R. 709 - By Glasgow: Extending welcome to Mr. Willard Howle and Mrs. Helen Howle of Stephenville.

S.R. 710 - By Glasgow: Extending welcome to Mrs. Judy Phillips of Stephenville.

S.R. 711 - By Glasgow: Extending welcome to Mrs. Debbie Mills of Stephenville.

S.R. 712 - By Glasgow: Extending welcome to Mrs. Cleo Teague of Stephenville.

S.R. 717 - By Doggett: Extending welcome to Michelle Foreman and Wendy Fesmire, "Honorary Pages" for the day.

S.R. 718 - By Doggett: Extending congratulations to Lucile O'Donnell.

RECESS

On motion of Senator Mauzy the Senate at 8:26 o'clock p.m. took recess until 8:00 o'clock a.m. tomorrow.

APPENDIX

Signed by Governor
(May 19, 1981)

H.B. 1000 Effective September 1, 1981
 Sec. 13 effective
 September 1, 1983

S.C.R. 98

Signed by Governor
(May 20, 1981)

S.B. 319 Effective immediately
S.B. 735 Effective immediately
H.B. 373 Effective immediately
H.B. 388 Effective September 1, 1981
H.B. 448 Effective September 1, 1981
H.B. 480 Effective August 31, 1981
H.B. 481 Effective August 31, 1981